

**UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF UTAH**  
**STANDING ORDER NUMBER 1**

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**Supplementation to Local Rules 2003-1, 2083-1, 5005-1 and 6070-1.  
Effective For All Cases Filed, and Also For Existing Cases Converted to Chapter 13,  
After July 2, 2005**

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**RULE 2003-1**

**MEETING OF CREDITORS AND EQUITY SECURITY HOLDERS**

L. R. 2003-1:

Title: The title has not changed.

Text: (a) An objection to a Chapter 13 trustee's notice of failure to comply will be heard at the time scheduled as the confirmation hearing on Official Form 9I. Because the objection will be served on all parties in interest, the notice contained in Official Form 9I will constitute sufficient notice of the hearing on the objection.

(d) The rule is applicable to information requested by the trustee or United States trustee at any time, not just requests made at the meeting of creditors.

(a) **Attendance.** The court may dismiss a voluntary case, except a case that has been converted from a Chapter 11 case to a Chapter 7 case or from a Chapter 7 case to a Chapter 13 case, if the debtor or the debtor's attorney fails to appear at the scheduled or continued meeting of creditors required under § 341 of the Code. If the debtor or the debtor's attorney fails to appear, the trustee must file a notice of failure to comply and serve it on the debtor and the debtor's attorney. If an objection to the trustee's notice is not filed within 20 days after service of the notice, the clerk must

enter an order dismissing the case. In a joint case where only 1 spouse appears, the case will be bifurcated and the appropriate dismissal entered. In a Chapter 7 case, the objection must also move for an extension of the time fixed under Fed. R. Bankr. P. 4007(c) and 4004(a) for filing a complaint under §§ 523(c) and 727 of the Code. **In a case other than a Chapter 13 case,** the objecting party must set a hearing and give notice to parties in interest as provided in Fed. R. Bankr. P. 2002(a). If a hearing on the objection is not held within 40 days after the objection is filed, the clerk must enter the order of dismissal, unless the court orders otherwise. **In a Chapter 13 case, a hearing on an objection filed in response to the trustee's notice of failure to comply will be held at the time scheduled as the confirmation hearing on Official Form 9I, unless the court orders otherwise. No notice in addition to the notice of hearing contained on Official Form 9I is required.**

(b) **Telephonic Appearance at Meeting of Creditors.** [No change.]

(c) **Debtor Identification.** [No change.]

(d) **Information Requested by the Trustee or by the United States Trustee at the Meeting of Creditors.** The debtor must produce the following materials no later than 10 days after a written request by the trustee or United States trustee:

(1) bank statements, cancelled checks, and checkbooks; and

(2) any other documents, recorded information, or other information reasonably necessary for the effective administration of the estate.

(e) **Costs of Meeting Facilities.** [No change.]

(f) **Notice of Rescheduled Meetings of Creditors.** [No change.]

## RULE 2083-1

### CHAPTER 13 - GENERAL

L. R. 2083-1:

Title: The title has not changed.

Text: (b) New subsection (b) is added to list documents that must be provided to the Chapter 13 trustee at the Meeting of Creditors.

(c) Newly lettered subsection (c) provides that an objection to a Chapter 13 trustee's notice of failure to comply with subsection (a) or new subsection (b) will be heard at the time scheduled as the confirmation hearing on Official Form 9I. Because the objection will be served on all parties in interest, the notice contained in Official Form 9I will constitute sufficient notice of the hearing on the objection.

(e) Newly lettered subsection (e) fixes a time for filing a motion to dismiss under §109(g). Because the motion will be served on all parties in interest, the notice contained in Official Form 9I will constitute sufficient notice of the hearing on the motion.

(g) The old procedure for confirmation by consent has been eliminated. The new procedure fixes a time for filing an objection to confirmation. Because the objection will be served on all parties in interest, the notice contained in Official Form 9I will constitute sufficient notice of the hearing on the objection. The plan may be confirmed without objection if all objections have been resolved. If the plan is confirmed without objections, the confirmation hearing may be stricken and an order confirming the plan entered. The debtors and their attorney are excused from a hearing on a plan confirmed without objection.

(a) **Chapter 13 Plan Payments.** [No change.]

(b) **Documents Provided to the Trustee at the Meeting of Creditors.** A debtor must provide to the trustee copies of the following documents at or before the meeting of

creditors:

- Proof of all charitable contributions made within 60 days before the date of the filing of the petition;
- A copy of the most recent county property tax assessment for all real property listed on Schedule A;
- A profit and loss statement if a debtor had self-employment income for the 60 days prior to filing, including income reported on an IRS Form 1099;
- A business questionnaire for each business operated by the debtor 60 days prior to filing on a form supplied by the trustee.

**(bc) Failure to Make Payments or to Provide Documents**. If a debtor fails to make the first payment required by subsection (a) of this rule **or to provide documents required by this rule**, the trustee must file a notice of failure to comply and serve it on the debtor and debtor's attorney. If an objection is not filed within 20 days after service of the notice, the clerk must enter an order dismissing the case. ~~The objecting party must set a hearing and give notice to parties in interest as provided in Fed. R. Bankr. P. 2002(a). Unless the court orders otherwise, if a hearing on the objection is not held within 40 days after the objection is filed, the clerk must enter the order of dismissal.~~ **A hearing on an objection filed in response to the trustee's notice of failure to comply will be held at the time scheduled as the confirmation hearing on Official Form 9I, unless the court orders otherwise. No notice in addition to the notice of hearing contained on Official Form 9I is required.**

**(cd) Postpetition Child Support, Alimony, Maintenance Payments Deemed Voluntary**. [No change.]

**(de) Eligibility Hearing**. ~~A party must file and serve a motion to dismiss a Chapter 13 case under § 109(e) of the Code not later than 30 days after the claims bar date. A hearing on the motion must be held no later than 10 days before the date set for the plan confirmation hearing.~~ **A party must file and serve a motion to dismiss a Chapter 13 case under § 109(e) of the Code not**

later than 10 days before the date set on Official Form 9I for the plan confirmation hearing. Such motion will be heard at the plan confirmation hearing, unless the court orders otherwise.

**(ef) Distribution in Discontinued Preconfirmation Cases.** [No change.]

**(fg) Consent Calendar.** ~~A Chapter 13 case may be set for hearing on the court's consent calendar upon submission by the debtor to the trustee of such information necessary to enable the trustee to recommend to the court confirmation of the plan by consent. Debtors and the debtors' attorneys are excused from confirmation hearings set on the court's consent calendar. The court may strike a consent hearing if it appears that an order confirming the plan should be entered. The hearing on a plan not confirmed by consent is continued to the date set for the contested confirmation hearing calendar set forth on the notice of the meeting of creditors under § 341 of the Code, or such other date as the court may direct.~~ **Confirmation.** Any objection to confirmation must be filed and served not later than 10 days before the date set on Official Form 9I for the plan confirmation hearing. Such objection will be heard at the plan confirmation hearing, unless the court orders otherwise. If there are no timely filed objections to confirmation pending or if all objections to confirmation are resolved by a court order or a stipulation signed by the debtor, the trustee, and the objecting party, a plan may be confirmed without objection. If the plan is eligible to be confirmed without objection, the confirmation hearing may be stricken and an order confirming the plan entered. Debtors and the debtors' attorney are excused from the confirmation hearing if the plan will be confirmed without objection.

## **RULE 5005-1**

### **FILING REQUIREMENTS**

L. R. 5005-1:

Title: The title has not changed.

Text: (b) An objection to a Chapter 13 trustee's Section 341 Meeting Report will be heard at the time scheduled as the confirmation hearing on Official Form 9I. Because the objection will be served on all parties in interest, the notice contained in Official Form 9I will constitute sufficient notice of the hearing on the objection. In Chapters 7, 12 and 13, the requirement to file copies of paper documents, in addition to the original, has been eliminated. In a Chapter 13 case, the debtor must file copies of all payment advices or other evidence of payment received within 60 days before the date of the filing of the petition, by the debtor from any employer of the debtor.

(a) **Filing of Papers.** [No change.]

(b) **Petitions, Schedules, Statements, and Plans.**

(1) **Dismissal of Voluntary Case for Late Filing of Certain Papers.** The court may dismiss a voluntary case, except a case that has been converted from a Chapter 11 case to a Chapter 7 case or from a Chapter 7 case to a Chapter 13 case, if the debtor fails to file a list of creditors' names and addresses, verified schedules and statement of financial affairs, a list of equity security holders, or a Chapter 13 plan within the time provided by Fed. R. Bankr. P. 1007 and 3015. If a debtor does not file the papers timely, the United States trustee or case trustee must file a Section 341 Meeting Report indicating the failure to comply and serve it on the debtor and debtor's attorney. If an objection to dismissal is not filed within 20 days after service of the

Section 341 Meeting Report, the clerk must enter an order dismissing the case. If an objection is timely filed, the dismissal is stayed. **In a case other than a Chapter 13 case, the objecting party must set a hearing and give notice to parties in interest as provided in Fed. R. Bankr. P. 2002(a). Unless the court orders otherwise, the clerk must enter an order dismissing the case if a hearing on the objection is not held within 40 days after the objection is filed. In a Chapter 13 case, a hearing on an objection filed in response to the trustee's Section 341 Meeting Report will be held at the time scheduled as the confirmation hearing on Official Form 9I, unless the court orders otherwise. No notice in addition to the notice of hearing contained on Official Form 9I is required.**

(2) Papers and Number of Copies Required. In accordance with Fed. R. Bankr. P. 1007, the papers listed below must be filed in voluntary cases in addition to the lists required by subsection (c) of this rule. Filing Users are excused from providing copies of papers filed electronically.

#### Chapter 7

Petition, ~~original and 2 copies~~;  
Statement of financial affairs, ~~original and 2 copies~~;  
Schedules A through J, ~~original and 2 copies~~;  
Statement of intention (if required under § 521 of the Code), ~~original and 2 copies~~; and  
Statement disclosing compensation paid or promised to be paid to the attorney for the debtor, ~~original and 2 copies~~.

#### Chapter 11

Petition, original and 3 copies;  
Statement of financial affairs, original and 3 copies;  
Schedules A through J, original and 3 copies;  
List of creditors, excluding insiders, holding the 20 largest unsecured claims, original and 3 copies;  
List of equity security holders; and

Statement disclosing compensation paid or promised to be paid to the attorney for the debtor, original and 3 copies.

## Chapter 12

Petition, ~~original and 1 copy~~;  
Statement of financial affairs, ~~original and 1 copy~~;  
Schedules A through J, ~~original and 1 copy~~;  
List of equity security holders (if the debtor is a corporation or a partnership), ~~original and 1 copy~~; and  
Statement disclosing compensation paid or promised to be paid to the attorney for the debtor, ~~original and 1 copy~~.

## Chapter 13

Petition, ~~original and 1 copy~~;  
Schedules A through J, ~~original and 1 copy~~;  
Statement of financial affairs, ~~original and 1 copy~~;  
**Copies of all payment advices or other evidence of payment received within 60 days before the date of the filing of the petition, by the debtor from any employer of the debtor;**  
Chapter 13 plan and plan summary, ~~original and 1 copy~~; and  
Statement disclosing compensation paid or promised to be paid to the attorney for the debtor, ~~original and 1 copy~~.

- (c) **List of Creditors and Equity Security Holders.** [No change.]
- (d) **Cover Sheets in Contested Matters.** [No change.]
- (e) **Date-Stamped Copies.** [No change.]
- (f) **Facsimile Filing.** [No change.]



## RULE 6070-1

### TAX RETURNS AND TAX REFUNDS

L. R. 6070-1

Title: The title has not changed.

Text: (a) The rule deletes the reference to debtors who are employers.

(c) The rule includes new timing for filing returns with taxing authorities and providing copies of tax returns for Chapter 13 debtors. All tax returns required to be filed by applicable law during the four prior years must be filed no later than the day prior to the § 341 meeting. A copy of the most recent Federal and state return must be provided to the Chapter 13 trustee not later than 7 days prior to the § 341 meeting. A declaration of filed returns on a form provided must be filed and served on the Chapter 13 trustee no later than the day prior to the § 341 meeting. The rule provides dismissal as sanction for violating the rule, and also provides a method for hearing any objection to dismissal.

(a) **Tax Requirements in Chapter 11, 12 and 13 Cases.** Debtors in possession, Chapter 11 trustees, and Chapter 12 and 13 debtors, are subject to the requirements and regulations of the Internal Revenue Service and any applicable state or local taxing authority. Debtors who are not ~~employers~~ **required to collect federal taxes as described in subsection (1) below and are not required to collect state and local taxes as described in subsection (2) below** are required to comply only with subsection (6) below.

(1) **Federal Taxes.** The debtor, debtor in possession or the trustee must comply with the Internal Revenue Code and regulations regarding withholding of taxes from the wages of employees, the payment of the employer's FICA and FUTA tax liabilities, the

making of deposits of such taxes, and the filing of employment tax returns as well as any excise or income tax returns for which the estate is liable.

(2) State Taxes. The debtor, debtor in possession or the trustee must comply with the laws and regulations of any applicable state or local taxing authority regarding withholding of taxes from the wages of employees; the collection and remittance of other types of tax which the estate is required to collect, deposit with, or remit to any applicable state or local taxing authority; the payment of unemployment insurance contributions to the appropriate state or local taxing authority; and the timely filing of returns accounting for the same.

(3) Trust Accounts. Within 20 days after the petition date, the debtor in possession or trustee must open separate bank trust accounts for the Internal Revenue Service and for each applicable state and local taxing authority for all tax deposits. Only the tax deposits due each entity are to be made into these trust accounts as they accrue each pay period. A Chapter 12 or 13 debtor must provide the applicable trustee proof of such trust accounts at the § 341 meeting.

(4) Notification. The debtor in possession or trustee should notify the Internal Revenue Service and each state or local taxing authority of the location and account numbers of the respective trust accounts opened under subsection (a)(3) of this rule. The notices should be sent within 5 days after the date the account is opened. Notices to the Internal Revenue Service, the Utah State Tax Commission, and the Utah Department of Workforce Services must be mailed or delivered to addresses cited in Local Rule 2002-1(f).

(5) State Deposit Verification. The debtor, debtor in possession or trustee

must, if applicable, file the Utah State Tax Commission's Verification of Taxpayer Deposit at the address shown in Local Rule 2002- 1(f) within 5 days after making the required deposit.

(6) Filing and Payment. The debtor, debtor in possession or trustee must: (A) timely file any required tax returns with the Internal Revenue Service; (B) timely file any required tax returns with any applicable state or local taxing authority; (C) timely file unemployment insurance contribution reports with applicable state or local authorities; and (D) pay taxes on a current basis. Returns and reports filed with and payments made to the Internal Revenue Service, the Utah State Tax Commission and the Utah Department of Workforce Services should be delivered to the addresses stated in Local Rule 2002-1(f), not to the regular addresses for filing the returns and reports.

(b) Tax Returns in Chapter 12 Cases. [No change.]

(c) Tax Returns in Chapter 13 Cases. ~~The Chapter 13 debtor must, at least 90 days after the initial meeting of creditors under § 341 of the Code, file any past and currently due tax returns. If the debtor fails to do so, the trustee or taxing authority may file a motion to dismiss and serve it on the debtor and the debtor's attorney. If an objection to the motion to dismiss is not filed within 20 days after service of the motion, the clerk must enter an order dismissing the case. The objecting party must set a hearing and give notice to parties in interest as provided in Fed. R. Bankr. P. 2002(a). Unless the court orders otherwise, if a hearing on the objection is not held within 40 days after the objection is filed, the clerk shall enter the order of dismissal.~~

(1) A Chapter 13 debtor must, no later than the day before the date on which the meeting of creditors is first scheduled to be held, file with the appropriate tax authorities, any and all tax returns required under applicable nonbankruptcy law for all taxable periods

ending during the four year period before the filing of the petition.

(2) A Chapter 13 debtor must provide, not later than 7 days before the date first set for the first meeting of creditors, to the trustee a copy of the Federal and state income tax returns required under applicable law (or at the election of the debtor, a transcript of such return) for the most recent tax year ending immediately before the commencement of the case and for which a Federal or state income tax return was filed.

(3) No later than the day before the date on which the meeting of creditors is first scheduled to be held, the debtor must file and serve on the Trustee a declaration regarding tax returns in the form attached hereto as Appendix D.

(4) If the debtor fails to comply with paragraphs (1), (2) or (3) of this subsection, or fails to obtain an extension of time for the period in which to do so, the trustee or the taxing authority may file a motion to dismiss and serve it on the debtor and the debtor's attorney. If an objection to the motion to dismiss is not filed within 20 days after service of the motion, the clerk must enter an order dismissing the case. Unless the court orders otherwise, any objection filed in response to the motion to dismiss will be heard by the court at the confirmation hearing scheduled on Official Form 9I.

(d) **Modification of the Automatic Stay for Certain Assessments and Refunds of Taxing Entities.** Unless a party in interest objects and the court orders otherwise, the stay of § 362 of the Code is modified to provide for the following assessments and refunds in any case filed in this district. The Internal Revenue Service, Utah Tax Commission, and the Utah Department of Workforce Services are authorized to:

(1) assess tax liabilities reflected on voluntary filed tax returns and tax returns prepared under authority of applicable statutory provisions; and

(2) make refunds in the ordinary course of business to debtors who have filed cases under Chapter 9, 12 or 13, to trustees appointed in Chapter 7 and 11 cases, or, if a trustee has not been appointed in a Chapter 11 case, to the debtor in possession.

**APPENDIX D**

**FORM FOR DECLARATION REGARDING TAX RETURNS**

[INSERT CAPTION STATED IN LOCAL RULE 9004-1(a)]

1. I/we, the undersigned debtor(s), declare under penalty of perjury that either:

(MARK ONE)

\_\_\_\_\_ a. All federal and state tax returns for taxable periods ending during the four year period before the filing of the petition *have* been filed.

**OR**

\_\_\_\_\_ b. The following tax returns for taxable periods ending during the four year period before the filing of the petition *have not* been filed.

Taxing Agency	Type of Tax Return	Tax Years

2. Complete for any tax return filed after the filing of the bankruptcy petition.

On or before the \_\_\_\_\_ day of \_\_\_\_\_, 200\_, the above-named debtor(s) delivered the following copies of tax returns to the Insolvency Unit of the Internal Revenue Service and/or the Bankruptcy Unit of the Utah State Tax Commission and that such returns disclosed the following liabilities and/or refunds:

Federal or State	Tax Year	Type of Tax/Form No.	Tax Liability	Tax Refund

3. I/we acknowledge that the court will not confirm any Chapter 13 Plan and the case may be dismissed at or before the confirmation hearing unless all tax returns have been filed.

4. I/we further acknowledge that I/we will file and serve on the Trustee an amended declaration if further required tax returns are filed with the taxing authorities after the date indicated in paragraph 1 above.

DATED this \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
Debtor

\_\_\_\_\_  
Debtor

\_\_\_\_\_  
*[insert typewritten name of Attorney for Debtor(s)]*  
*[insert typewritten address and telephone number of Attorney for Debtor(s)]*